

# 2002 Report of The Indiana Supreme Court

## Division of State Court Administration

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**Lilia G. Judson, Executive Director**

The Indiana Supreme Court Division of State Court Administration (the "Division") is an administrative office of the Chief Justice of Indiana. The Division assists the Chief Justice and the Indiana Supreme Court in the administration and management of Indiana's judicial system and its officers (I.C. 33-2.1-7-3). State statutes, Supreme Court rules and Supreme Court policies define the duties and authorities of the Division and its Executive Director.

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### Judicial Workload, Receipt and Expenditure of Funds

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One core responsibility of the Division is the collection of statistical information concerning the operations of Indiana's courts and their offices. Pursuant to Indiana Code 33-2.1-7-3 and Indiana Supreme Court Administrative Rules 1 and 2, the Division collects and publishes information on the caseload and fiscal activities of all courts and probation offices throughout the state. This data is published annually in *The Indiana Judicial Service Report* and *The Indiana Probation Report*. This data provides the empirical basis for policy decision by both the Indiana Supreme Court and the Indiana General Assembly.

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### Weighted Caseload Measures and Caseload Redistribution Plans

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Following a two-year study beginning in 1994 conducted by the Judicial Administration Committee of the Indiana Judicial Conference, the Division, and an independent consultant, Indiana

developed a system for measuring trial court caseloads based on weighted relative times for cases. This Weighted Caseload Measures System examines only new cases filed in trial courts. The measurements provide a projection of the average judicial time necessary in the state, any given district, county, or court, to handle the cases being filed during a given period of time. These weighted statistics provide the Indiana Supreme Court and the Indiana General Assembly with the information necessary for allocation of judicial resources.

Trial courts also use these statistical measures to develop district and county caseload plans which seek to reduce disparity in caseloads and judicial resources so that all courts in a county fall within a 25% variance range of the average county caseload.

During 2002 the Division worked once again with the Judicial Administration Committee of the Indiana Judicial Conference to conduct an update and validation of the Weighted Caseload Measures System. Since the study was first conducted, the addition of new case type designations and procedural and substantive changes necessitated an update of the original study. The results of the update to the Weighted Caseload Measures were completed in the fall of 2002, were approved by the Indiana Supreme Court, and have been included in the calculations for this report.

In anticipation of these changes, the Division began collecting data under new

case categories in January 2002. The data represented in this report includes the updated categories and weights.

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### Judicial Technology and Automation

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In the latter part of 1999 the Indiana Supreme Court established the Judicial Technological and Automation Committee ("JTAC") and appointed Supreme Court Justice Frank Sullivan, Jr. as its chair. The Supreme Court asked Justice Sullivan and JTAC to develop a long-range strategy for technology and automation in Indiana's judicial system, including the funding and implementation of a judicial information case management system, judicial data processing, electronic filing, and related technologies. The Supreme Court assigned the Executive Director of the Division to assist JTAC in the performance of its duties.

Since its inception, JTAC and the Division staff have helped the Supreme Court move Indiana's judicial system into the modern age of technology. Through Justice Sullivan's leadership and JTAC innovations, the Supreme Court (1) provided e-mail and the necessary hardware to every Indiana trial court judge and clerk of court; (2) provided the trial court judges and clerks free access to automated legal research through a contract with Lexis/Nexis; and (3) provided free training on basic computer skills in a structured educational setting through a contract with Ivy Tech State College.

In mid-2002, the Supreme Court embarked on the key project of this automation initiative, the deployment of a case management system for Indiana's courts and the connection of individual courts with each other and with users of court information such as the State Police, Department of Revenue, Family Social Services Agency, Department of Correction, Bureau of Motor Vehicles, and the prosecuting attorneys system, ProsLink. The project is one of

unprecedented complexity, breadth, and expense for the Indiana judiciary.

After reviewing 35 proposals from around the world, JTAC unanimously recommended to the Indiana Supreme Court the selection of Computer Associates International, Inc. ("CA") to provide Indiana with a 21<sup>st</sup> Century case management system "CMS"). Following that decision, in mid-2002, the Division executed a contract with CA for the development and deployment of the Indiana CMS and for the interface of the CMS with other state systems. The Supreme Court announced a policy that will guide the deployment of the CMS. Under the policy, the CMS will be made available to any county wishing to install the CMS. A county that elects, at its own expense, to upgrade substantially an existing or acquire a new case management system, other than the statewide CMS, may do so only with written permission of the Division.

Funding technology initiatives in the judicial system has been a daunting issue in Indiana due to the organizational structure of Indiana's trial courts, which are funded primarily through county funds. However, in 2002, the Indiana General Assembly provided funding for a large portion of JTAC's initiatives by establishing a designated judicial technology fee and making some specific appropriations. Other funding sources for the technology initiative include federal grants awarded through the Indiana Criminal Justice Institute.

These technology initiatives necessitated the addition of new space and staff to the Division. During 2002, the Division leased additional office space to house the already growing JTAC staff, which is anticipated to reach twenty-five full time employees. The new office space contains a technology training center equipped with Internet connected work stations.

Hundreds of Indiana judicial officers, lawyers, court employees, clerk and clerk staff, members of state agencies, and other stakeholders have and will participate in the development of the Indiana CMS. CA and JTAC project teams have already completed an intensive learning process through numerous discovery sessions. The goal of the discovery process is to customize the CA core case management system to meet Indiana's needs and practices. Over 240 people from 52 counties participated in the discovery process, and over 126 people from 15 counties participated in the design review process. As of the writing of this report, the JTAC team is embarking upon on-site visits to approximately 26 counties during which the team will conduct a more in-depth presentation of the system and an analysis of local resources and needs.

Members of the Judicial Administration Committee of the Judicial Conference and the Supreme Court Records Management Committee are embarking upon a standardization of Indiana's Chronological Case Summary entries. Under the leadership of Supreme Court Justice Brent Dickson, members of the Records Management Committee have been joined by representatives of the press, victim advocates, and numerous other organizations to work on a policy of public access and privacy to court records, including the automated records that will be available through the CMS.

Through this automation project, the Indiana Supreme Court plans to provide all Indiana courts with technology that will (1) allow Indiana trial courts and court clerks to manage their caseloads faster and more cost-effectively, (2) provide users of Indiana court information with more timely, accurate, and comprehensive information, and (3) reduce the cost of trial court operations borne by the counties.

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## Legal Responsibilities

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The Supreme Court and the Chief Justice assign the majority of the legal responsibilities of the Division. The Division legal staff serves as counsel to the Supreme Court in matters involving attorney discipline and requests for the appointment of special judges, special masters, and senior judges. In fiscal year 2002/2003, the Division legal staff assisted the Supreme Court in disposing of 108 disciplinary matters. As part of this disciplinary function, the Division staff conducts preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court Disciplinary Commission, attorneys who are serving as hearing officers in disciplinary cases, as well as requests for review of decisions by the Disciplinary Commission and the Indiana Commission on Judicial Qualifications.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for such selection and certification to the Supreme Court in certain unusual circumstances. The Division monitors local rules establishing plans for special judge selection and processes requests for the appointment of special judges by the Supreme Court. In fiscal year 2002-2003, the Division received 139 new requests for special judge appointments.

Various federal and state laws, rules and regulations, as well as U.S. Supreme Court decisions affect the administrative responsibilities of trial judges. Since 1996, one of the Division attorneys with experience in labor law has been designated to provide advice to trial judges on employment law issues. Additionally this attorney has provided training for judges and their staff on a wide variety of issues such as Sexual Harassment Sensitivity Awareness, the Americans With Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, Effectively

Disciplining and Terminating Problem Employees, and Effective Use of Policies and Drug Testing.

Since 2000, a Division legal staff member has served as staff counsel to the Board of Law Examiners. In addition, that Division attorney has been appointed by the Supreme Court to represent the interests of the Board of Law Examiners in appeal hearings brought by bar applicants who have been denied admission to practice law.

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#### **Rule Amendments and the Supreme Court Committee on Rules of Practice and Procedure**

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The Executive Director of the Division serves as Executive Secretary of the Indiana Supreme Court Committee on Rules of Practice and Procedure and assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court.

The more notable rule amendments promulgated during 2002 include an amendment to Indiana's long arm jurisdiction rule, Trial Rule 4.4; an amendment to Trial Rule 26, which allowed electronic transmission of discovery documents; and an amendment to Evidence Rule 1002, allowing digital signatures on records of the Indiana Bureau of Motor Vehicles. In addition, Indiana's jury reform project resulted in the Supreme Court adopting a new set of jury rules, effective January 2003. Among the new provisions, Indiana jurors now may ask questions and are drawn from a wide array of lists of names. During 2002, Division staff and a special Judicial Conference Committee chaired by Clay Circuit Court Judge Ernest Yelton, assisted Indiana's trial judges in establishing ways to implement the new jury rules.

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#### **Judicial Qualifications / Nominating Commission**

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Pursuant to IC 33-2.1-7-3(a)(4), the Division provides legal and administrative staff support to the Indiana Commission on Judicial Qualifications and the Indiana Judicial Nominating Commission. The Qualifications Commission investigates and prosecutes allegations of ethical misconduct by Indiana judges, judicial officers, and candidates for judicial office. The Commission staff is available to advise judges and others about the Code of Judicial Conduct, and the Commission periodically issues formal advisory opinions about judicial ethics. The Nominating Commission selects the Chief Justice of Indiana from among the five Justices, and it solicits and interviews candidates for vacancies on the Indiana Supreme Court, the Indiana Court of Appeals, and the Indiana Tax Court. The Nominating Commission also certifies former judges as Senior Judges.

During fiscal year 2002-2003, the Nominating Commission convened for four meetings. It certified 21 new Senior Judges, re-certified 82 Senior Judges, and declined to certify one applicant for Senior Judge status.

The Qualifications Commission convened for nine meetings in the fiscal year 2002-2003. It had on its docket 284 allegations of misconduct. Of this number, 234 were dismissed summarily as not establishing ethical misconduct. In response to seven of those complaints, the Commission sent advisory letters to the judges. The Commission inquired into or formally investigated 49 complaints against judges. Seventeen cases were dismissed with findings that no misconduct occurred.

The Commission issued 20 private cautions to judges in fiscal year 2002-2003, and issued three public admonitions in lieu of filing formal disciplinary charges. Three complaints from the prior year were

resolved when a judge agreed to resign after a hearing and a report from the Masters concluding he committed misconduct. Another case in which the Commission filed formal charges in the prior year was resolved when the judge and the Commission agreed to a public reprimand from the Supreme Court. The Commission filed formal charges against one judge in 2002-2003. Three Masters presided over a disciplinary hearing and recommended the judge receive a sanction of up to thirty days suspension without pay. At the end of the fiscal year, that case was pending before the Supreme Court on the Commission's recommendation that the Court impose the full thirty-day suspension. The fiscal year concluded with five inquiries or investigations pending.

A more detailed report about the Commission, its members, and activities is published separately in the Indiana Supreme Court Annual Report, and may be found at [www.in.gov/judiciary](http://www.in.gov/judiciary).

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### Senior Judge Program

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In 1989, the General Assembly enacted legislation allowing the Indiana Supreme Court to use the services of former judges who have been certified as Senior Judges by the Indiana Judicial Nominating Commission. The program, small at first, has grown into an invaluable resource of about ninety seasoned judicial officers who serve at minimal cost. During fiscal year 2002/2003, senior judges logged 4,258 days of service in trial courts and the Indiana Court of Appeals. In addition to the certification and review of requests for this program, the Division administers the payroll and benefits for the participants. During fiscal year 2002/2003, the Division staff processed 322 requests for senior judge appointments to specific courts.

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### Appellate Court Automation and Technical Services

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The Technical Services Section of the Division provides daily computer operations support to all appellate level courts and their adjunct agencies. Justices, judges, and staff now have available to them secure, remote access when traveling or at home. Also available to staff are enhanced connections with other state agencies including the State Budget Agency, the State Auditor's Office, the Department of Personnel, and the Department of Administration.

The Roll of Attorneys is now available to the public via the Supreme Court's Clerk's web site. The Quarterly Case Status Report (QCSR) entry forms completed by trial courts each quarter have been moved from the pilot phase to the production phase for all courts in a web-based format. Many courts choose this method of reporting as it improves efficiency. A QCSR inquiry web site into data dating back to 1989 was also developed and deployed. A companion web site with a simplified version of the weighted caseload is also now available.

Currently under development is a new graphical user interface (GUI) for the Clerk's electronic case history system. A prototype for e-mailing yearly attorney transcripts for continuing legal education is also being developed and tested.

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### Indiana Conference for Legal Education Opportunity (CLEO)

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Since its inception in 1997, the Indiana Conference for Legal Education Opportunity (CLEO) has continued to grow as the first state-sponsored legal education program. Through countless programs, initiatives and dedicated staff members, volunteers, and CLEO alumni fellows, CLEO continues to meet and achieve its objective of providing assistance to minority, low-income, and educationally disadvantaged college



graduates as they pursue a legal education in Indiana and become members of the Indiana legal community. CLEO operates as a program of the Indiana Supreme Court under the supervision of the Division of State Court Administration.

An integral part of Indiana CLEO is an intensive six-week Summer Institute hosted by one of Indiana's four law schools. Each summer, approximately thirty students are selected as "Fellows" through a rigorous application process to participate in the Summer Institute. The Summer Institute prepares the fellows for the rigors of a law school education through concentrated class instruction and practical application. Summer Institute fellows are introduced to members of the Indiana judiciary and legal community through a variety of networking opportunities.

CLEO also co-sponsors a summer employment program with the state bar association each year. The Gateway to Diversity summer employment program focuses on linking first and second year law Fellows with internships, clerkships and summer association positions with Indiana firms, corporations, courts and state agencies.

To assist CLEO Fellows pass the state bar exam, CLEO began in 2001 to administer the Preparing Accomplished Students for Success on the Indiana bar exam (PASS) program to graduating CLEO Fellows. PASS is a supplemental bar exam program that utilizes mentoring and tutoring to prepare the Fellows for success on the written portions of the Indiana bar exam by providing practice exams and feedback six weeks. In 2002, CLEO Fellows had a 60% bar passage rate on the February exam, higher than the overall state passage rate of 57%. Additionally, for the July 2002 bar exam, CLEO Fellows passage rate was 70%, just seven percentage points lower than the overall passage rate of 77%. First

time bar examinees were successful on the July bar exam.

As of December 2002, there have been three graduating classes of Indiana CLEO Fellows totaling 68 students. Forty-eight CLEO Fellows have become licensed attorneys in the state of Indiana. CLEO looks forward to implementing and administering programs that will provide academic support programs, increased summer employment opportunities and bar exam preparation to current CLEO Fellows.

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### Civil Legal Aid Fund

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Since 1997, the Division has administered the distribution of an annual appropriation of \$1 million to aid qualified organizations providing legal assistance to indigent persons in civil cases. In fiscal year 2002-2003, the Division made distributions to ten organizations providing civil legal aid services to Indiana's poor. Distributions are based upon an analysis of each county's civil caseload, as it relates to the caseload for the entire state, and the number of organizations serving each county. The Division staff structured and instituted a data collection system whereby service providers collect and report their caseloads in a uniform manner. An initial report based on the data was published in the fall of 2002.

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### Court Improvement Grant

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The Indiana Supreme Court, through its Court Improvement Executive Committee and with the benefit of federal funds, continued a Court Improvement Project. The gist of the project is to improve the disposition time and services in cases involving abused and neglected children. The Division serves as the project director and fiscal administrator.

Although the purpose and overall framework of the project are set by the U.S. Department of Health and Human Services and the American Bar

Association's Center on Children and the Law, the Supreme Court and the members of an executive committee have guided the direction of the Indiana program. During the initial phase of this multi-phased project, the committee identified several areas of particular concern, which were targeted in subsequent phases. In the second phase, eighteen county level programs aimed at expediting CHINS cases were implemented. During a third phase, efforts were focused on larger, more comprehensive improvements in the delivery of services to children in the more populous counties of Lake, Marion, Elkhart, and St. Joseph. In a fourth phase, funding was providing to assist in the design of two Family Court Pilot Projects. The projects, located in Putnam and Porter counties, use mediation/facilitation services in family court cases with CHINS involvement.

In 2001, a fifth phase funded eight counties that plan to replicate the successful programs in phase three. These include pre-hearing facilitation in CHINS cases, case manager services, and family court projects. These projects continued toward completion in late 2002. The Supreme Court anticipates that the innovative programs developed through this grant will markedly improve the delivery of services to Indiana's children.

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### Information Management

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At the time of creating the Division of State Court Administration, the Legislature directed the Division to examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving courts and make recommendations for necessary improvement. Since 1983, the Indiana Supreme Court has had in place a multi-disciplinary committee, which provides policy guidance to the Division on records management issues. The Records Management Committee, chaired by

Justice Brent Dickson, has been charged to continuously study the practices, procedures, and systems for the maintenance, management, and retention of courts records employed by the courts and offices serving the courts.

As part of this records management function, Division staff worked with the Committee to develop a package of Administrative Rules, which have been promulgated by the Supreme Court. The rules govern various record keeping and management issues including reporting requirements, a system for numbering court cases, confidentiality of court records, a schedule for retaining and destroying court records, and standards for microfilming, video teleconferencing, and optical disk imaging. Much of the work in this area involves on-site visits and personal hands-on assistance to the court and clerk staff.

In 2002, the Records Management Section made 37 visits to 20 different counties, assisting them in: (1) review of microfilming procedures, (2) disposal of records, and (3) solutions to confidentiality and Protection Order problems.

The Records Management Section also worked closely with trial court judges and clerks in finding new ways to store court records. The basic scanning of court records raises permanency issues. However, in the last several years, vendors have developed a "hybrid" system that combines scanned images with microfilming, permitting full use of the scanning technology while permitting a permanent record to be made. Division staff have worked with Floyd, Johnson, Morgan, and Vigo Counties to develop procedures and standards for the use of such systems.

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### Protective Order Proceedings

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The Indiana protective order statutes charge the Division with the responsibility to design and update the forms used in

protective order proceedings. In response to numerous concerns and questions regarding the Indiana protective order process, the Supreme Court, in 2000, established a committee of the Judicial Conference of Indiana to explore ways to improve the process. Trial court judges and clerks comprise the membership of the committee, and the Indiana Judicial Center and the Division of State Court Administration provide staff support. The Honorable John Forcum, Judge of the Blackford Superior Court, chairs the committee, and the committee also has the assistance of Senior Judge Ruth Reichard, as a consultant.

The committee undertook and succeeded in having the Legislature pass a major revision of Indiana's protective order statutes. The Committee sought to accomplish the following objectives: streamlining and consolidating the *Indiana Code's* many references to "protective orders;" rewriting a single civil protective order act enhancing relief to people affected by domestic or family violence; writing a statute that would be consistent with recent federal mandates, such as the Violence Against Women Acts I and II; and using the Model Code on Domestic and Family Violence as the paradigm for this statutory reform.

Indiana's Civil Protective Order Act became effective July 1, 2002. A new comprehensive set of forms implementing the new act have been prepared and made available to the courts. The forms fall in to three categories: (1) protective orders, (2) no-contact orders, and (3) workplace violence restraining orders. Through this effort, Indiana has been able to streamline the multiple protective order process.

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#### **Standards for Preparation of Electronic Transcripts**

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In promulgating a full-scale revision of the Indian Rules of Appellate Procedure, the Indiana Supreme Court directed the

Division to establish standards for CD-ROM and disk size, formatting, transmission, and work processing software for the preparation of appellate transcripts. Pursuant to Appellate Rule 30, in 2002, the Division published and distributed a set of standards. The standards are published with the Appellate Rules and are also posted on the Supreme Court web site.

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#### **Accounts Management, Payroll and Claims, Judicial Benefits Coordination**

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The Division maintains and administers 12 accounts, totaling for fiscal year 2002/2003 approximately \$70,000,000. The administration of payroll and benefit program for all state trial court judges, prosecuting attorneys, and other judicial officials paid with state funds is part of this fiscal responsibility. The annual payroll account for this purpose is approximately \$56,000,000 and covers approximately seven hundred individuals. Also, as part of this "paymaster" function, the Division processes and pays in excess of 1,000 claims per year for special and senior judge service.

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#### **Indiana Office of GAL/CASA**

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In 1989, the Indiana General Assembly established an office of Guardian *Ad Litem* and Court Appointed Special Advocate services to be administered through the Division. Through this program, counties are encouraged to provide appropriate GAL/CASA services to neglected and abused children by receiving matching state funding administered by the Division and disbursed pursuant to a statutory formula. In addition, the State Office of GAL/CASA ("State Office") provides training and support services for local GAL/CASA programs. The Indiana Supreme Court Advisory Commission on GAL/CASA ("Advisory Commission"), which includes program directors and judges appointed by the Indiana Supreme



Court, provides guidance to the State Office. In state fiscal year 2002, 77 counties applied for and received state GAL/CASA funds. 68 counties in Indiana funded a volunteer-based GAL/CASA program, staffed by 127 paid personnel and 7 volunteer staff members.

In early 2003, the State Office collected data and compiled statistics for its 2002 annual report. Of the programs in Indiana, 94% responded to the request for submission of data. From the information gathered from those programs, the State Office determined that there were at least 2,060 active GAL/CASA statewide in 2002, including 557 newly trained volunteers. Even so, there were 1,615 children still waiting for a GAL/CASA volunteer to be appointed to their cases at the end of 2002.

The State Office once again received funding from the National CASA Association for the position of a program coordinator to assist the State Director in managing the State Office and supporting the local CASA programs across the State. The money given to Indiana from the National CASA Association is pursuant to a two year grant, which ends in June 2004. This grant has enabled the State Office to help establish CASA programs in counties that do not yet have active CASA programs, to assist programs that are in existence but need growth and development, and to provide enhanced support services to thriving programs. Funding from the grant has also made it possible to publish a quarterly newsletter and to conduct quarterly regional training for local program directors and staff.

The State Office participated in two national conferences held in Indiana in 2002 sponsored by the National CASA Association. In March, the Program Coordinator of the State Office spoke at the Rural Initiative Conference, a conference that examined the unique problems faced by rural CASA programs across the United States. In August, the

State Office and the National CASA Association co-hosted a three-day "Train the Trainer" conference for CASA program directors and staff to teach them how to facilitate the new national CASA training manual for new CASA volunteers. The State Office also participated in the Supreme Court's District Meetings in districts 1, 2, 3, 5, 6, and 13 and provided information to the trial court judges about the CASA program.

The State Director and Program Coordinator also attended the National CASA Association conference and the annual CASA State Director's conference. The Program Coordinator attended an advanced COMET facilitation training to better assist the programs in Indiana using COMET, the electronic case management tool that tracks cases in which a CASA is appointed.

On November 1, 2002, the State Office held its annual meeting for CASA directors and staff. Additionally, on November 2, the State Office sponsored the Sixth Annual Indiana State GAL/CASA Conference. Over 100 local county directors and their staff attended the daylong staff meeting. Over 350 CASA volunteers, local program directors, service providers, board members, and local program staff attended the annual CASA conference. The State Office also conducted numerous other trainings for CASA program directors, staff, and volunteers; attended volunteer recognition ceremonies; and provided technical assistance to multiple CASA programs across the State of Indiana.

The State Office and the Advisory Commission recently decided that it would be beneficial for Indiana CASA programs to support and participate in a national effort aimed at assessment and quality assurance of CASA programs. As a part of this initiative, each local CASA program will participate in a self-assessment

process developed by the National CASA Association. The self-assessment will be rolled out in four waves, with one wave every six months beginning in July of 2003. The State Office and the Advisory Commission believe that the self-assessment tool and national quality assurance system will promote quality advocacy on behalf of children and will promote greater consistency and professionalism in CASA programs across the State of Indiana.

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### Family Courts Project

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Five new counties (Marion, LaPorte, Boone, Montgomery, and Owen Counties) joined Johnson, Monroe, Porter, and Putnam Counties in establishing family courts to better serve children and families. Annual data collection from the family courts confirms that: (1) significant numbers of families have multiple cases pending in the court system; (2) both the “one judge-one family” and “information sharing between multiple courts” models are effective for coordinating multiple-case families; and (3) the Family Court Rules created specifically for the family courts enable more informed decision making regarding safety and stability issues for children and families.

Individuality has continued to be a hallmark of the Indiana Family Court project. Each family court is encouraged to develop case coordination models and service programming consistent with the needs and resources of the county. Some of the innovative programming developed this year include “judicial assistance” to help judges locate affordable services for indigent parties, direct case management or service referral programming for chronic and/or high-risk families, a “pro-se desk” run by volunteer attorneys to answer basic legal questions, “family focused” programming for children with truancy and other school problems, and coordination of protective orders procedures. There has also been an impressive expansion of alternative

dispute resolution programming within the family courts this year, including the use of low-cost or pro bono attorney mediation and facilitation. Facilitation is a more versatile form of mediation that is particularly effective the pro se litigants in custody disputes, and in promoting case planning and permanency in CHINS and termination of parental rights cases.

This year has also been a year to assess the merits of the Family Court Project. An essential truth has emerged from this process. The term “Family Court” in Indiana involves more than just models of case coordination or service programming. It is a concept based on the significance of family in our culture and our legal system. It recognizes the unique stresses and safety issues in family litigation, the role of the family in affecting individual behavior, and the particularized need for timeliness and consistency in judicial rulings involving children. The family court concept maintains that case coordination is required to avoid uninformed, inconsistent, or delayed rulings for families with multiple cases in the court system. It emphasizes a holistic and non-adversarial approach to problem solving. The concept encourages judges and attorneys to fully disclose information about the family’s legal cases in order to obtain a complete and long-lasting resolution to the family’s situation. The concept eschews unnecessary adversarial tactics to the approach to the resolution of legal issues affecting the safety and stability of children, within the parameters of due process of the law.

Given the growing awareness of the family court concept and the success of the individual pilot courts, it is anticipated that Indiana will transition its family court efforts from the “pilot project” phase to a permanent initiative in the coming years. A statewide Family Court Initiative will continue to promote systems to better ensure efficiency and effectiveness for families in our courts.

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### Public Defender Commission

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The Division is responsible for providing staff support to the Indiana Public Defender Commission. The Commission sets standards for indigent defense services in non-capital cases and recommends standards to the Indiana Supreme Court for application in capital cases. The Commission administers a program of reimbursements to qualified counties under I.C. 33-9-14-4.

At present, 50 counties have comprehensive plans approved by the Commission for delivery of indigent services. Over fifty percent of the state's population resides in counties eligible to receive reimbursements in non-capital cases under the program. The Commission approved reimbursements to 6 counties in 10 separate death penalty cases during the first three quarters of the fiscal year 2002-2003. These reimbursements totaled \$342,464.

Also during the year, the Executive Director, pursuant to Criminal Rule (C)(1), adjusted the hourly rate paid in death penalty cases from \$90 to \$93 per hour. This was the first adjustment under the Supreme Court's amendments to Criminal Rule 24, which provide for adjustment of the hourly rate every two years.

In non-capital cases during the first three quarters of fiscal year 2002-2003, the Commission approved reimbursements to 47 counties. These reimbursements totaled \$5,371,364.

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### Sharing Information Through the Internet and Traditional Publications

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The Division publishes a newsletter, *The Indiana Court Times*, which serves as a communication link with the trial courts, their staff, the clerks of court, and all other entities involved in the courts' work. The Division designs and maintains the website for the appellate level courts and their adjunct offices. In addition to court

opinions, rule amendments, downloadable forms, summary statistical reports, a self help center, Indiana CLEO applications and advisory opinions issued by the Indiana Commission on Judicial Qualifications, are now available on the website. Also, Indiana's attorneys can now view and track their continuing education courses (CLE) over the Internet. The Division endeavors to provide a communication link between the appellate level courts, trial judges, their staffs, and the clerks of court.

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### Indiana Supreme Court Commission on Race and Gender Fairness

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Sparked by concerns about race and gender fairness in Indiana's justice system, the Supreme Court, through an administrative rule, created the Commission on Race and Gender Fairness in 1999. Representatives of Indiana's judiciary, the practicing bar, academia, state and local governments, public organizations, and law enforcement and corrections comprise the twenty-five member Commission chaired by former Indiana Supreme Court Justice Myra Selby. The Executive Director and staff of the Division of State Court Administration assist the Commission in the performance of its duties.

Initially, funding for the Commission's work came directly from the Supreme Court's budget. At the request of the Chief Justice, the Indiana General Assembly has twice appropriated distinct biennial budgets for the work of the Commission.

The Commission submitted its Executive Report and Recommendations to the Indiana Supreme Court on January 2, 2003. The Report is the culmination of three years of study and research on the part of the Commission. The process included research of work done by other similar bodies and also information gathered in Indiana. First, the Commission conducted eight community

forums in seven Indiana cities during 2001. Trained facilitators led small group discussions designed to allow the Commission to hear the views of every person present. Second, the Commission retained the Indiana University – Purdue University at Indianapolis Public Opinion Laboratory to gather raw data by surveying opinions of seven groups associated with the court system. Surveys were randomly sent to judicial officers, court employees, attorneys, prosecutors, public defenders, law enforcement officers, and legal service providers. Third, the Commission hired ZQI, Inc. to conduct eighteen focus group discussions throughout the state. One hundred and twenty court users, court employees, law enforcement personnel, criminal lawyers, and non-criminal lawyers were interviewed. This information was combined with data from law schools, government records, and other surveys to form the basis for the Commission's report.

In its report, the Commission makes six general recommendations in five specific areas: Makeup of the Profession; Language and Cultural Barriers; Criminal and Juvenile Justice; Civil, Domestic and Family Law; and Employment.

As of the date of this report, the Supreme Court had approved the first general recommendation, that the Commission be continued, and is in the process of addressing each of the other specific recommendations. The Commission will be continuing its work and will serve in an advisory capacity for the Indiana Court Interpreter program, discussed below, recommended by the Commission and approved by the Court.

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#### **Certified Court Interpreter Program**

As a part of the study of Language and Cultural Barriers by the Supreme Court Commission on Race and Gender Fairness (see above), it became apparent to the Commission that Indiana is ill

prepared to deal with persons who do not speak English or have limited understanding of English. The Commission's research indicates that Indiana's justice system has no court interpreter system, but court interpreters frequently are needed in the state trial courts. Census figures show ethnic populations in Indiana have increased dramatically in the last decade, with the most significant increase occurring in the Hispanic/Latino population. Census figures show Indiana's Hispanic/Latino population grew from about 99,000 in 1990 to nearly 215,000 in 2000.

A survey conducted by the Indiana University Public Opinion Laboratory showed that approximately 90 percent of the responding courts had used foreign language translators during the preceding six months. The survey also showed some of those judges used interpreters more than 100 times during that six-month period. Eighty-five percent of the interpreters used by those judges translated between Spanish and English. Most compelling was the survey finding that thirty percent of the courts that responded had been unable to find an interpreter when one was needed.

As this need became evident in the course of the Commission's study, the Commission decided to make an interim recommendation to the Indiana Supreme Court to institute a statewide court interpreter system. The Commission is not the first to call for competent court interpreters. The Indiana Commission on Hispanic/Latino Affairs previously recommended to Governor Frank O'Bannon the creation of a centralized system of expert interpretation in courtrooms for Hispanic/Latino individuals with limited English-speaking abilities.

In response, the Supreme Court authorized the Executive Director of the Division to join the National State Court Interpreter Certification Consortium through the National Center for State

Courts and to implement an Indiana court interpreter testing system for Spanish. The court also approved in principle the concept for a code of ethics for interpreters and the concept for setting specific certification standards for interpreters. The Court will look to an Advisory Board to assist the court in developing these components.

In addition, the Supreme Court agreed with the Commission's assessment that a strong need exists for training and orientation of interpreters, judges and court staff. Because of the fiscal impact, the Court decided to implement this recommendation to the extent that it could be accommodated by the existing judicial education structure. The Court stopped short of mandating the use of certified interpreters and asked the Commission for further information.

In August 2002, Indiana joined the National Center for State Courts – Court Interpreter Certification Consortium. Indiana will begin the process of certifying court interpreters in 2003.

Availability of competent interpreters is a fundamental factor in providing access to justice for all. The Indiana Supreme Court has taken a decisive step in assuring such access to non-English speaking people.

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#### **Judicial District Business Meetings**

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During early 2003, in conjunction with the Indiana Judicial Center, the Division helps sponsor the biannual judicial district business for Judicial Districts 4, 8, 9, 7, 10, 11, 12, and 14. Meetings were held in Lafayette, Indianapolis, Hagerstown, Bloomington, and Madison with a total of 136 judicial officers in attendance. Judges received updates on pay issues, Court of Appeals, and JTAC. Other items discussed included public records initiatives, the Weighted Caseload project, and GAL/CASA.

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#### **Committee on Local Rules**

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At the request of the Supreme Court Committee on Rules of Practice and Procedure, the Supreme Court convened a special Local Rules Committee to examine the local court rules of Indiana's courts and to recommend a model structure for such rules. The Division administers, coordinates and provides staff to the new committee, which is chaired by the Honorable Margret Robb of the Indiana Court of Appeals. The first task of the committee during the reporting year was the compilation of all existing local rules into one place. The committee expects to complete its work by the end of 2003.

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#### **Indiana Project on Self-Represented Litigants**

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The Indiana Supreme Court's Pro Se Advisory Committee and Pro Se Project entered their second year of existence in 2002. This Advisory Committee was created by the Indiana Supreme Court in response to the growing national phenomenon of people choosing to represent themselves without lawyers. The Supreme Court appointed the Pro Se Advisory Committee to make recommendations to the Supreme Court on the issues of pro se litigation; to develop a comprehensive strategy plan for future pro se efforts; and to help trial courts respond to the growing numbers of the self-represented. The Committee consists of a variety of community members from the courts, legal associations, and other service providers.

The Pro Se Advisory Committee updated the Self-Service web site with even more valuable information for the self-represented. The site consistently ranked among the top 10 pages on the Indiana Judiciary Web Site throughout the year. This year, we started posting notices of seminars, conferences, pro



bono sessions, and other events that empower people with legal information.

In addition to the nine pleading forms with instructions we had already made available, we produced the much-anticipated "Divorce with Children" court form that can be used by people representing themselves. We continued to travel around the state presenting training sessions to court staffs.

In the summer of 2002, the advisory committee submitted its initial report to the Indiana Supreme Court. In it, the Committee suggested that it be given authority to continue its previous work, broaden its scope of education for all involved in the pro se phenomenon, look at the issue of discrete task lawyering (unbundling), and look at the language concerns Hispanics encounter in our judicial system. The Court responded positively to the report. This coming year, we will add more information to the web site, create more court forms, translate more materials into Spanish, expand and multiply the education efforts, and review the discrete task lawyering issue.

The Committee continues to welcome suggestions and feedback. It is responding to the needs of the many people in the judicial system confronted with the growing numbers of the self-represented. By addressing these issues, the Supreme Court is improving access to and confidence in the justice system.